

**REQUEST FOR PROPOSAL**

FOR

**Casper Area Municipal Planning Organization  
Regional Management and Operations of Casper Area Transit Services**

RFP No. FTA 17-01

**OPENING DATE:** January 18, 2017

**OPENING TIME:** 2:00 PM, Mountain Time

**Date of RFP:** October 21, 2016

The Casper Area Metropolitan Planning Organization (MPO) is accepting responses to a Request for Proposal (RFP) dated October 21, 2016, from qualified transportation Contractors interested in managing and operating the Casper Area Transit Services within the City of Casper, Town of Mills, Town of Bar Nunn and Town of Evansville. Chosen Contractor should be prepared to begin transit services on July 1, 2017. Services to be provided include fixed route transit services, special request services, and maintenance of corresponding shelters, signs, and other related marketing materials.

Copies of the RFP may be obtained by visiting the City of Casper website, <http://www.casperwy.gov> beginning October 21, 2016. **A pre-proposal conference will be held Monday, November 14, 2016 at 2:00 PM local prevailing time in the Downstairs Meeting Room 110 at Casper City Hall, 200 North David Street.** Attendance is not mandatory to submit a proposal; however, Casper Area MPO anticipates that discussions at this meeting will be an important part of the overall process. Interested Contractors must respond via email and present any questions regarding the needs and project scope prior to the pre-proposal conference to Pam Jones, Casper Area MPO Administrative Support Technician at [pjones@casperwy.gov](mailto:pjones@casperwy.gov). Any questions posed after the pre-proposal conference must be submitted in writing prior to Friday, December 9, 2016 at 4:00 PM local prevailing time.

**The deadline for proposal submission is 4:00 PM, local prevailing time on Friday, January 6, 2017.** Proposals received after the aforementioned date and time will not be considered and will be returned to the respective vendor unopened. Sealed Proposals delivered in person should be hand carried to the Casper City Hall, Casper Area Metropolitan Planning Organization, 200 North David, Casper, WY. Mailed proposals should be sealed, clearly identified, and submitted to Liz Becher at the above address; both methods of delivery are subject to the proposal deadline date.

Liz Becher  
Assistant City Manager/Community Development Director

Publish:  
October 21, 2016  
October 28, 2016

The following information packet comprises a “Request for Proposal” for Casper Area Transportation Services.

The proposal consists of the following documents:

- 1. Introduction and Background**

The City of Casper (hereinafter CITY) is seeking proposals from transportation providers (hereinafter Contractor) interested in providing management and operation services for a fixed-route/route deviation and door-to-door paratransit service within the Casper urbanized area of Natrona County, Wyoming, namely the City of Casper, the Town of Mills, Town of Bar Nunn,

Town of Evansville and other urbanized parts of Natrona County. The City of Casper does not directly operate the system. It currently contracts with the Casper Area Transportation Coalition (CATC), a non-profit group, for service. The present contractor, CATC, is a private, non-profit organization governed by a Board of Directors that also oversees CATC's operations. CATC began Dial-A-Ride service in 1982 and then expanded to include a four-line, fixed-route system in 2005. The current system consists of door-to-door paratransit service that still operates by the name of CATC and the fixed-route portion of the system operates by the name of The Bus, although it is still managed and operated by the Casper Area Transportation Coalition. If an alternative Contractor is selected to provide service, the transit service name may change. The name Casper Area Transit (CAT) will be used throughout the remainder of the RFP to denote the overall transit system.

The City of Casper and the Towns of Mills and Evansville own their own buses and the City of Casper Garage services all of them. The Bus fleet consists of eight (8) vehicles with seating capacity ranging from a 9-person van to 26-passenger cutaways. The CATC, door-to-door paratransit service, fleet consists of twelve (12) vehicles ranging from a six (6) passenger van to eighteen (18) passenger cutaways. All transit vehicles are wheelchair accessible.

Casper Area Transit (CAT) is financed through a combination of sources including the City of Casper, fare revenues, Federal Transit Administration (FTA) Section 5307, Section 5316 funds, funding from Bar Nunn, Evansville, Mills, the State of Wyoming Department of Transportation (WYDOT), the urbanized portions of Natrona County, and from contracts with local agencies. The City of Casper is the grantee and the Municipal Councils are the policy making body for transit in the metropolitan area. The Contractor's Director attends the Casper MPO Technical Committee meetings. Overall administration of the system is the responsibility of the City's Department of Community Development.

Since the inception of transit services, the City has used the services of an independent management and operations Contractor to provide operations and maintenance management, staff, materials and supplies. The City provides major equipment items, facilities for lease, and street furnishings. The Contractor purchases fuel from the City.

According to the 2010 Census, a population of 75,450 residents lives within the Casper Area Metropolitan Planning region.

The successful Contractor will be expected to assist in the development of ridership projections, and service planning, administration, maintenance of signage and technically adept records. Contractor scope would also include assisting in the installation of passenger shelters and benches at various bus stops and other related duties. The City will be responsible for the purchase and installation of all bus stop signs, signposts, and shelters.

Door-to-door paratransit service and fixed-route services must be effectively coordinated with the Community Development Department, specifically the Metropolitan Planning Organization (MPO).

Service shall begin on July 1, 2017 and go through June 30, 2018. Based on funding and mutual agreement of the CITY and the Contractor, the agreement period may be extended for a period not exceeding five (5) consecutive years, in one year increments.

## **2. General Information**

Proposals are requested by the City of Casper, referred to as "City" herein, for the management and operation of the Casper Area Transit Fixed-route and Door-to-Door Paratransit system,

hereinafter referred to as “CAT”. For purposes of this RFP, independent Contractors interested in submitting proposals are referred to as “Contractor.”

The successful Contractor to whom an award is made will be required to enter into an agreement with the City.

All proposals shall be for the complete management and operation of the transit system, as specified and in all respects, so that the proposal contemplates and ensures a complete turnkey system such that nothing remains to be purchased, provided or supplied by City, other than as noted within the provisions of the Contract. It is understood by each Contractor that this RFP requires, in all cases, all elements of a complete operating system for transit service in the metropolitan area. The Contractor shall agree to provide a fixed-route deviation *and* door-to-door paratransit service within Wyoming in the City of Casper, the Town of Mills, Town of Evansville, Town of Bar Nunn and parts of Natrona County.

A. Tentative Schedule

The tentative schedule and description of events for this procurement are given below:

Activity	Due Date
RFP Available to Contractors	October 21, 2016
Pre-proposal conference	November 14, 2016 2:00 PM (local time)
Deadline for submitting Questions or Comments	December 9, 2016 4:00 PM (local time)
Proposals Due	January 6, 2017 4:00 PM (local time)
Public Opening of Proposals	January 18, 2017 2:00 PM (local time)
Interviews	Week of February 13, 2017
Notification of Award	March 1, 2017
Deadline for Submitting Protests to the City and FTA	March 8, 2017 4:00 PM (local time)
Contract Awarded	No later than May 2, 2017

**All dates are tentative and subject to change at the sole discretion of the City.**

B. Pre-Proposal Conference: Questions and Comments

As noted in the Tentative Schedule, a pre-proposal conference will be held Monday, November 14, 2016 at 2:00 PM local time. Any questions and/or comments may be submitted to the following individual via email or if any Contractor prefers, questions can also be mailed to:

Pam Jones, [pjones@casperwy.gov](mailto:pjones@casperwy.gov)  
City of Casper, Administrative Support Technician  
200 North David Street  
Casper, WY 82601  
By 4:00 pm on Friday, December 9, 2016

### C. Proposal Evaluation Criteria

Responsive proposals will be evaluated in accordance with the following criteria. Contractors will be evaluated for selection on the basis of those most qualified to meet the requirements of this RFP, as amended. Major criteria to be considered in evaluation include the following:

#### CATEGORY A: TECHNICAL CAPACITY

1. Demonstrated understanding of requirements and responsiveness to proposal guidelines

#### CATEGORY B: FINANCIAL CAPACITY

1. Financial stability of Contractor illustrated by financial statements from previous fiscal year.
2. Proposed monthly and hourly rates, and allocation of contract resources.
3. Financial Plan for term including personnel, preventive maintenance, general liability and vehicle liability.

#### CATEGORY C: ORGANIZATION AND MANAGEMENT

1. Demonstrated public transit management and operations capabilities and performance.
2. Qualifications and experience of the proposed General Manager and other personnel.
3. Commitment and approach to maximizing the safety, quality and efficiency of public transit operations.
4. Demonstrated understanding and commitment to equitable labor management practices, Equal Employment Opportunity, and non-discrimination in the selection of subcontractors and in the provision of public transit services.
5. Ability to provide for and/or contract for necessary drug testing services as required by the FTA.

#### CATEGORY D: RELEVANT AND RELATED EXPERIENCE

1. The experience of the contractor or in providing similar service elsewhere, including the level of experience in working with municipalities, managing boards, and the quality of services performed, together with the Contractor's demonstrated operational competency and established history to provide the services requested by the MPO through this RFP.
2. The capabilities and experience of the proposed management team, their succession plan, and ability to provide a smooth management transition.

### D. Interview and Clarifications

Prospective Contractors should be prepared to attend an interview during the time allowed for the evaluation process. Key management personnel must be available at the interview, including, at minimum, the proposed General Manager and a responsible executive management employee. The City may choose, at its sole discretion, not to interview all Contractors or to award a contract without conducting any oral interviews.

The City reserves the right to request clarifications, in writing, to any element of the Contractor's proposal package.

**E. Selection**

It is the intent of the City that a *firm, fixed-price contract award* will be made in writing to the *lowest responsive and responsible Contractor*. Following the ranking of the proposals based upon the criteria established herein, and with the advice of the evaluation committee, the City shall enter into negotiations with the top ranked Contractor to reach final agreement on specific terms of an operating contract. Should negotiations with the top ranked Contractor not be successful, as determined by the City, staff shall enter into negotiation with the next highest ranked Contractor, and so on, until a final agreement is made. Such agreement will be acted upon and executed by action of the City.

The City reserves the right to withdraw this RFP at any time without prior notice. The City also makes no representations that any agreement will be awarded to any proposer responding to this RFP. The City expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal.

Oral Presentation: Contractors who submit a Proposal in response to this RFP may be required to give an oral presentation of their Proposal to the selection committee. This provides an opportunity for the Contractor to clarify or elaborate on the Proposal. This is a fact finding and explanation session only and does not include negotiation.

**F. Length of Contract**

The initial term of the agreement shall be from July 1, 2017, through and including June 30, 2018. Upon completion of the initial term, the City, at its sole discretion, may extend the term of this agreement on a year to year basis for a period not exceeding five (5) consecutive years, in one year increments, provided that changes in the terms and conditions of the extension are mutually agreed upon by both parties. The City's contract payment terms will be 30 days from the receipt of approved invoices from the service Contractor. Upon receipt and review of invoices submitted Contractor will be reimbursed for allowable expenses by the City.

**3. Statement of Purpose**

The purpose of this Request for Proposal is to obtain sealed proposals for the management and operations of Casper Area Transit Services for a fixed-route bus and paratransit system.

It is the goal of this Request for Proposal to identify a Contractor(s) that is able to fulfill the transportation needs of the local community and execute a contract for Transportation Service.

**4. Conditions/Instructions for Proposal Submittal Conditions**

**A. Adherence to Proposal Form**

All proposals are to be prepared in strict conformity with these instructions and submitted on the forms requested. Unacceptable conditions, failure to respond to specific instructions, or failure to provide requested information may result in the rejection of the proposal.

**B. Required Submittal Information**

The following Certificates need to be properly signed and returned with the proposal:

1. Affidavit of Non-collusion
2. Vendor Code of Ethics
3. Contractor's Certification of Eligibility
4. Compliance with Specifications
5. Certification of Restrictions on Lobbying
6. Proof of Responsibility Statement
7. A list of additional Consulting Services available and their associated hourly fees
8. Resumes for key personnel
9. References, with contact information
10. Additional information Contractor desires to provide to assist in the evaluation of the Proposal.

Sealed Proposals must be received no later than 4:00 PM on Friday, January 6, 2017. Please submit one (1) original and three (3) copies of all other supporting documents to:

Liz Becher, Assistant City Manager/Community Development Director  
ATTN: RFP No. FTA 17-01  
City of Casper  
200 North David Street  
Casper, WY 82601

C. Scope of Work

The successful Contractor to whom an award is made will be required to enter into an agreement with the City similar to the draft agreement.

All proposals shall be for the complete management and operation of CAT, as specified and in all respects, so that the proposal contemplates and ensures a complete turnkey system such that nothing remains to be purchased, provided or supplied by City, other than as noted within the provisions of the Contract. It is understood by each Contractor that this RFP requires, in all cases, all elements of a complete operating system for transit service in the metropolitan area. The Contractor shall agree to provide a fixed-route deviation *and* door-to-door paratransit service within Wyoming in the City of Casper, the Town of Mills, Town of Evansville, Town of Bar Nunn and parts of Natrona County.

The chosen Contractor will be required to provide fixed-route and as needed paratransit services for the Casper Urbanized Area. The Contractor will be responsible for maintaining management and operations of services including but not limited to: administrative duties, technical data management, and signage display maintenance. Other duties will be included in scope of project requirements as clarified herein and those agreed upon by Contractor and City.

D. Organizational Information

A statement of Contractor's organizational structure, experience, history, legal status (i.e. partnership, corporation, etc.), capabilities, financial solvency, and list of owners and officers must be submitted as part of the proposal. Include information on how you intend to manage

the transit staff and system. Prospective Contractors must submit a description of their firm including the aforementioned aspects in addition to an explanation of overall organizational structure, corporate, regional, and contact level management. The successful Contractor will provide a qualified and experienced management team (General Manager) who will reside in the City of Casper or surrounding area, for the term of the contract.

The Proposal should specifically include the name, qualifications and detailed resume of the person proposed as General Manager. The General Manager of the successful Contractor shall have at least five (5) years' experience in a senior management position in the transit industry and a bachelor's degree. Such General Manager must have experience and be knowledgeable of federal and state rules and regulations. The General Manager should also have the ability to develop and execute a strategic plan for a transit system, working with federal, state and local governments and have experience expanding and marketing such systems. The General Manager should also have a history of industry involvement on a local, state, and national level. **Any change in General Manager during the term of this contract must be approved by the Municipal Councils.**

The MPO will be the oversight entity. It is to be understood that final decisions on operations will be the responsibility of the MPO and will be carried out by the Contractor. Any operating decisions will be approved by MPO Management in collaboration with Contractor. The MPO will oversee policies and regulations regarding transit planning and operations. Chosen Contractor will be the administrator of said policies, regulations and operating tasks.

E. Personnel

Submit the resumes and availability of candidates for General Manager.

F. Budget

Submit a detailed and complete Cost Proposal with separate budgets for door-to-door paratransit service and fixed-route service

G. Job Classification and Wage Scale

Submit a detailed breakdown of staffing, including job classifications and wage scales. The City believes the residents of the service area will be best served with experienced drivers and other transit personnel. The City, therefore, requires the Contractor to give first preference in hiring to existing employees of CATC at no less than current wages and benefits. Labor Protection requirements are shown on page nine (9). No existing employee shall be refused employment for other than a failure to meet basic statutory requirements for the position, failure to successfully pass a physical examination and a drug and alcohol screen, or failure to meet established and justifiable selection criteria of the Contractor.

H. Employee Benefit Package

Submit the specific benefit package that will be provided to employees. Include any incentive or motivational programs to be provided. Clearly indicate the employee's share of any costs connected to the benefit package, whether for the employee or for dependents.



I. Driver Training

Submit a description of the hiring and training programs for drivers and other employees. Include any on-going training programs provided to employees. Indicate the level and number of hours involved in these programs.

J. Insurance Coverage

Provide a statement indicating insurance coverage. Submit proof that the required insurance coverage can be obtained by the Contractor. The City shall be named as an additional insured on said insurance coverage.

K. Transition Plan and Schedule of Operation

Special attention must be given to a smooth transition between Contractors if such a change occurs. Contractor must provide a brief transition plan and schedule (if appropriate) describing how the Contractor proposes to start operations on behalf of the City. The narrative should start at contract award and proceed through the entire transition period until the new operation is established. Include time frames, benchmarks, staff involved (on a department basis), etc. The Transition Plan will be part of the evaluation of Contractors.

L. Acknowledgment of RFP Addenda

Any changes to this RFP including the Draft Agreement and Scope of Work will be made by Addendum. All addenda shall be signed and attached to the respective Proposal Form. Failure to attach any addenda shall cause the proposal to be considered non-responsive. Such proposals may be rejected.

M. Vehicle Maintenance/Cleaning

Contractor shall use existing City maintenance program.

N. Other Responsibilities

The Contractor will be responsible for all signage, shelter up-keep, financial reports and any related changes to the aforementioned items. Efforts related to physical assets used by The Bus (or other system), will be documented and provided in writing to the MPO office on a monthly basis. Updates of activity and tasks will be included in a monthly update provided no later than the 10<sup>th</sup> of the following month for the month of the update (i.e. a report will be provided for the month of April, no later than the 10<sup>th</sup> of May).

Contractor will be responsible for coordination and collaboration on bus route and schedule maximization for the benefit of the largest population of citizens. Contracted staff will be required to demonstrate understanding and applicable skills regarding route and schedule development aligned with Federal, State, and local guidelines. Current route schedule will be adjusted to provide service hours that serve the public with heightened effectiveness.

Contractor may be required to follow through with an annual route and schedule analysis in coordination with the support of the Casper Area MPO.

## **5. Proposing Contractor's Representations**

In submitting its proposal, the proposing Contractor makes the following representations to the City:

- A. The Contractor is familiar with all requirements of the general conditions, specifications and instructions.
- B. The Contractor is familiar with all matters affecting the performance of the work including all general and special laws, ordinances and regulations that may affect work and those persons employed therein.
- C. The Contractor is in the business and is fully qualified and skilled in the field of public transit and is fully willing and able to satisfy the requirements of the Contract at the stated rates and any award of Contract is in reliance on such representations.
- D. The Contractor has the financial capability of undertaking a project of this nature and has no pending legal or financial obligations which may prevent the Contractor from completing the scope of work, as outlined in this RFP, through the term of the proposed agreement. Any Contractor, or its parent, who in the past five (5) years has sought creditor protection or filed for reorganization under the bankruptcy laws must identify that fact and explain the circumstances surrounding such an action.

## **6. Pre-Contractual Expenses**

The City shall not be liable for any pre-contractual expenses incurred by any proposer or selected Contractor. Proposer shall not include any such expenses included in response to this RFP. The City shall be held harmless and free from any and all liability, claims or expenses whatsoever incurred by or on behalf of any person or organization responding to this RFP.

## **7. Verbal Agreement of Conversation**

No prior, current or post award verbal agreement(s) with any officer, agent or employee of the City shall affect or modify any terms or obligations of this RFP or any Contract resulting from this process.

## **8. Special Funding Considerations**

Any Contract resulting from this RFP will be financed primarily with funds available in accordance with city operations, general revenues of local participating jurisdictions, and available FTA 5307 Urbanized Area Formula Program funds. The Contract for this service is contingent upon the receipt of these funds. In the event that funding from any source is eliminated or decreased, the City reserves the right to terminate any Contract or modify it accordingly.

## **9. Alternatives and Exceptions**

Since the City desires to enter into a Contract with a Contractor who will provide all services, only those proposals to provide all services will be considered responsive.

**10. Non-Exclusivity of Contract**

It shall in no way be construed that any contract to be awarded hereby is or shall be the sole or exclusive contract for transit services into which the City may enter. The Contractor has no exclusive rights granted per this contract.

**11. Non-Collusion Affidavit**

By submitting a proposal to this RFP, the Contractor represents and warrants that such a proposal is genuine and not a sham, collusive or made in the interest or on behalf of any person or party not therein named and that the prospective Contractor has not directly or indirectly induced or solicited any other Contractor to put in a sham bid, or any other person, Contractor or corporation to refrain from presenting a proposal and that the prospective Contractor has not in any manner sought by collusion to secure an advantage. If it is found that collusion exists, proposals will be rejected and contract awards found null and void.

**12. Transit Facility Visits**

Tours of the City's transit operations facility will be allowed by appointment only. Appointments must be arranged through the office of the Director of Community Development or his/her designee.

**13. Clarifications**

Clarifications to the RFP will be issued in writing only and will be issued to all prospective Contractors who have requested the RFP in accordance with the process stipulated herein.

**14. Subletting of Contract**

The contract derived from this RFP shall not be sublet except with the written consent of the City. No such consent shall be construed as making the City a party to such subcontract, or subjecting the City to liability of any kind to any subcontractor. No subcontractor shall, under any circumstances, relieve the Contractor of his liability and obligation under this contract, and all transactions with the City must be through the City's Director of Community Development.

49 CFR 26.39 establishes within the Federal Transit Administration Disadvantaged Business Enterprise (DBE) guidelines, which is also required to be within the Casper Area MPO DBE program an element to structure contracting requirements to facilitate competition by small business concerns. The selected Contractor will be required when contracting out work to take all reasonable steps to eliminate obstacles to small business participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime Contractors or subcontractors.

**15. Assignment/Transfer of Interests**

There shall be no assignment/transfer of interests or delegation of the Contractor's rights, duties, or responsibilities under the contract derived from this RFP without the prior written approval of the City.

**16. Regulatory Requirements**

The Contractor shall comply with all Federal, State and local licensing and/or regulatory requirements (including permits) for the provision of transit services.

**17. Severability**

In the event any provision of the contract is declared or determined to be unlawful, invalid, or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the contract and each provision of the contract will be and is deemed to be separate and severable from each other provision.

**18. Independent Price Determination**

The Contractor certifies that he has not colluded, conspired, connived, or agreed, directly or indirectly with any proposer, person, or entity to refrain from proposing. Further, that he has not in any manner, directly or indirectly, sought by agreement, collusion, communication, or conference, with that of any person or entity to fix the proposal amount herein or that of any other Contractor, or to fix any overhead, profit, or cost element of said proposal amount, or that of any other Contractor, or to secure advantage against the City or any person interested in the proposed contract.

**19. Labor Protection Requirements**

The following is a list of average hourly wages and description of benefits required in Proposal.

<u>POSITION</u>	<u>AVERAGE HOURLY WAGE</u>
Vehicle Operator	\$15.00/HR
Dispatcher	\$15.00/HR

Holidays: Regular full-time employees receive a match of City granted national holidays.

Health Insurance: Applicable to regular employees only, health insurance including basic coverage, major medical, pharmacy and life insurance benefits.

Vacation: Regular part-time and full-time employees receive paid vacation leave and sick leave to be presented in proposal by Contractor.

Section 125 Pre-tax Benefits: Applicable to employer paid health insurance for self and dependents.

Employee Leave of Absence: Employer will grant employees leave for the following reasons: Bereavement, maternity, administrative. The employee may also request leave without pay for up to three months.

Uniforms: Driver shirts are provided by employer.

**20. Withdrawal of Proposals**

A Contractor may withdraw his/her Proposal at any time before the time set for the public opening of the Proposals only by written notice addressed to the bid opening marked "WITHDRAWAL OF PROPOSAL" and physically received by the Casper Area MPO prior to the date of the public opening of Proposals.

## **21. Federal Contractual Provisions**

### **A. Fly America Requirements**

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

### **B. Buy America Requirements (Does not apply to this contract)**

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have more than 60% domestic content for FY17, more than 65% domestic content for FY18 and FY19 and more than 70% domestic content for FY20 and beyond.

### **C. Charter Bus Requirements**

The Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

### **D. School Bus Requirements (Does not apply to this contract)**

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

### **E. Cargo Preference Requirements (Does not apply to this contract)**

Use of United States-Flag Vessels - The Contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping

any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

F. Seismic Safety Requirements (Does not apply to this contract)

If a new structure is required, the Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

G. Energy Conservation Requirements

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

H. Clean Water Requirements

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

I. Bus Testing

The Contractor agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

1. A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
2. A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
3. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the

vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

4. If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

#### J. Pre-Award and Post Delivery Audits Requirements

The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

1. Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Contractor certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
2. Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
3. Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

#### K. Lobbying

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### L. Access to Records and Reports

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller

General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.



M. Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

N. Clean Air

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

O. Recycled Product

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or Contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

P. Davis Bacon and Copeland Anti-kickbacks Act

The Contractor shall comply with the provisions under the Davis-Bacon Act (40 U.S.C. 276 A to A-7) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5). The Contractor shall also comply with the provisions under the Copeland ("Anti-kickback") Act (18 U.S.C. 874) as supplemented by Department of Labor regulations (29 C.F.R., Part 5).

Q. Contract Work Hours and Safety Standards Act

The Contractor shall comply with the provisions under the contract work hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by the Department of Labor Regulations (29 C.F.R., Part 5).

R. No Government Obligation to Third Parties

The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal

Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include that above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

S. Program Fraud and False or Fraudulent Statements and Related Acts (Applicable to all Contracts)

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. And U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. §5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

T. Termination

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to the Agency, the Contractor will account for the same, and dispose of it in the manner the Agency directs.

The Agency may, by written notice of default to the Contractor, terminate the whole or any part of this Contract if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other material provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) business days, or such

longer period as the Contracting Officer may authorize in writing, after receipt of notice from the Contracting Officer specifying such failure.

If the Contract is terminated in whole or in part for default, the Agency may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated. The Contractor shall be liable to the Agency for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

Except with respect to defaults of Subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of a cause beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources and in sufficient time to permit the Contractor to meet the required delivery schedule.

Payment for completed supplies delivered to and accepted by the Agency shall be at the Contract price. The Agency may withhold from amounts otherwise due the Contractor for such completed supplies such sum as the Contracting Officer determines to be necessary to protect the Agency against loss because of outstanding liens or claims of former lien holders.

If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the Agency.

#### U. Government-Wide Debarment and Suspension (Nonprocurement)

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C, and must include the requirement to comply with 49 CFR 29, Subpart C, in any lower-tier covered transaction it enters into.

By signing and submitting its bid or Proposal, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Casper Area Transportation Planning Process (MPO). If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the MPO, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C, while this Proposal is valid and throughout the period of any Contract that may arise from this Proposal. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## V. Privacy Act

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## W. Civil Rights Requirements

The following requirements apply to the underlying contract:

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  - a. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - b. Age - In accordance with section 4 of the Age Discrimination in Employment Act

of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

c. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

#### X. Breaches and Dispute Resolution

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City of Casper's [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

Unless otherwise directed by City of Casper, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Casper and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Casper is located.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City of Casper, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### Y. Transit Employee Protective Agreements

1. The Contractor agrees to comply with applicable transit employee protective requirements as follows:

a. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

b. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities

If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

c. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas

If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

2. The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

Z. Disadvantaged Business Enterprise

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is **0.5%**.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful Contractor will be required to report DBE participation obtained through race-neutral means throughout the period of performance.

The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from the Agency. In addition, is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The Contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

**AA. Incorporation of Federal Transit Administration (FTA) Terms**

FTA has developed the following incorporation of terms language- The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**BB. Drug and Alcohol Testing**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Wyoming, or the City of Casper, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before **December 31** and to submit the Management Information System (MIS) reports before February 15 to the Metropolitan Planning Organization Supervisor, 200 North David Street, Casper, Wyoming, 82601. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to submit, upon request, a copy of the Policy Statement developed to implement its drug and alcohol testing program.

In addition, the Contractor agrees to certify that he will provide a drug free workplace as required by the U.S. Department of Regulations “Government wide Requirements for Drug-Free Workplace (Financial Assistance), 49 C.F.R. Part 32, that implement the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 *et seq.* and FTA regulations, “Prevention of Alcohol misuse and Prohibited Drug Use in Transit Operations,” 49 C.F.R. Part 655, that implement 49 U.S.C. § 5331.

## **22. CITY OF CASPER CONTRACTUAL PROVISIONS**

### **A. Required Clauses**

To the extent applicable, Federal requirements extend to third party contractors and their subcontracts and sub agreements at every tier. Accordingly the Proposer will agree to meet the following Federal requirements in order to enter into any contracts and agreements arising from this RFP. In addition the Proposer will agree to include, and to require that its subcontracts and sub agreements include, appropriate clauses in each subcontract and each sub agreements financed in whole or in part with financial assistance provided by the FTA under the Grant Agreement(s) or Cooperative Agreement(s) between the City of Casper and the FTA.

### **B. Motor Vehicle Safety Standards**

Contractor (whether manufacturer or dealer) certifies that the vehicles to be supplied under this contract shall conform to all applicable Federal Motor Vehicle Safety Standards of the U.S. Department of Transportation, National Highway Traffic Safety Administration, and are certified by installation of the required certification plate.

### **C. Motor Vehicle Pollution Requirements**

In submitting its bid and executing a contract, Contractor assures that facilities or equipment (including motor vehicles) furnished, constructed or improved under the contract are or will be designed and equipped to limit air pollution as provided in accordance with EPA regulations as contained in 40 C.F.R. Parts 84, 85, and 86 (Control of Air Pollution from Motor Vehicles and Engines) and 40 C.F.R. Part 600 (Fuel Economy of Motor Vehicles) and all other applicable standards. For vehicle purchases the successful Contractor may be required to submit Certification to the City of Casper that the governing air pollution criteria has been met. This evidence and certification will be retained by the City of Casper. The Contractor hereby certifies that vehicles supplied under this bid or contract comply with provisions of the Clean Air Act and Amendments of 1991.

### **D. Liabilities Against Procuring Agency**

Contractor agrees to, and will, indemnify and hold the City of Casper, and its Council members, officers, agents, employees, representatives and attorneys, and each of them (hereinafter, collectively, “indemnities”) harmless from any liability in any amount for damages or claims for damages resulting or alleged to have resulted from personal injury(including, but not limited to death, emotional or mental distress and loss of consortium) and/or for property damage, which may arise or be alleged to have arisen in any way from Contractor’s performance under this contract. Contractor further agrees to, and will, defend indemnities, or any of them from any claims, actions, or suits for any damages, injuries or losses whatsoever, caused or alleged to have been caused by reason of Contractor’s responsibilities as contemplated by the Contract. Contractor’s obligations and duties as established in this Section will be in force and apply to Contractor’s acts, omissions, or



failures to act of any kind, whether negligent, the result of Contractor's willful or intentional misconduct, or otherwise, and shall further apply and be in force even if it is contended the acts, omissions or failures to act of parties other than the Contractor (including indemnities) caused or contributed to the losses, injuries or damages claimed.

For the purpose of the preceding paragraph, the term "losses" means all amounts paid to settle or satisfy any judgments or awards resulting from any claims arising from an occurrence, plus all amounts paid on account of attorney's fees, court costs and any other costs and expenses relating to the investigation, defense, satisfaction and/or settlement of such claims.

E. Omissions

Notwithstanding the provisions of drawings, technical specifications, or other data by the City of Casper, the Contractor shall have the responsibility of supplying all parts and details required to make the vehicle complete and ready for service, even though such details may not be specifically mentioned in the drawings and specifications.

F. Change Order Procedure

Within thirty (30) calendar days after receipt of the written change order to modify the Contract, the Contractor shall submit to the Contracting Officer, a detailed price and schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Contractor and Contracting Officer. At that time, a detailed modification shall be executed, in writing, by both parties. Disagreements that cannot be resolved with negotiations shall be resolved in accordance with the Contract disputes clause. Regardless of any disputes, the Contractor shall proceed with the work ordered, provided the Procuring Agency has obtained the prior concurrent from FTA.

G. Price Adjustment for Regulatory Changes

This is a fixed price contract, and no price adjustments will be made. Significant occurrences of changes in the industry which result in grievous loss to either party may result in terminations of the Contract and re-institution of the bidding process.

H. Interchangeability

All units and component procured under this contract, whether provided by suppliers or manufactured by the Contractor, shall be duplicated in design, manufacture and installation to assure interchangeability shall extend to the individual components as well as to their location on the vehicles.

I. Materials/Accessories Responsibility

The Contractor shall be responsible for all materials and workmanship in the contraction of the vehicles and all accessories used, whether the same are manufactured by the Contractor, or purchased from a supplier.

J. Spare Parts

The Contractor shall guarantee the availability of replacement parts for these vehicles for at least five (5) years after the date of acceptance. Spare parts shall be interchangeable with the original equipment, and shall be manufactured in accordance with the quality assurance provisions of the Contract.

K. Unavoidable Delays

If the delivery of completed vehicles under this Contract should be unavoidably delayed, the Contracting Official shall extend the time for completion of the Contract for the determined number of days of excusable delay. A delay is unavoidable only if the delay was not reasonable expected to occur in connection with, or during the Contractor's performance, and was not caused directly or substantially by acts, omission, negligence, or mistakes of the Contractor, the Contractor's suppliers, or their agents, and was substantial and in fact caused by the Contractor to miss delivery dates, and could adequately have been guarded against contractual or legal means.

L. Notification of Delay

The Contractor shall notify the Contracting Officer as soon as the Contractor has, or should have knowledge that an event has occurred which will delay deliveries. Within five (5) days, the Contractor shall confirm such notice in writing, furnishing as much detail as is available.

M. Request for Extension

The Contractor agrees to supply, as soon as such data is available, any reasonable proofs that are required by the Contracting Officer to make a decision on any request for extension. The Contracting Officer shall examine the request and any documents supplies by the Contractor and shall determine if the Contractor is entitled to an extension, and the duration of such extension. The Contracting Officer shall notify the Contractor of this decision in writing.

It is expressly understood and agreed that the Contractor shall not be entitled to damages or compensation, and shall not be reimbursed for losses on account of delays resulting from any causes under this provision.

N. Pre-Delivery Test and Inspection

Due to this procurement being less than ten (10) vehicles total, the Pre-delivery test inspection is not necessary.

O. Assumption of Risk of Loss

The Procuring Agency shall assume risk of loss of the vehicle upon delivery and acceptance of the vehicle. Prior to this deliver, the Contractor shall have risk of loss of the vehicle.

P. Acceptance of Vehicles

Within fifteen (15) calendar days after arrival at the designated point of delivery, the vehicle shall undergo the Procuring Agency's Acceptance Test. If the vehicle passes these tests, acceptance of the vehicle by the Procuring Agency occurs at that time. If the vehicle fails these tests, it shall not be accepted until the repairs have been made.

Q. Inspection

The City of Casper may require an inspection of the vehicles during construction to assure compliance with the specifications. If such an inspection is held, the Contractor shall make every effort to accommodate the City's agent.

R. Repairs after Non-Acceptance

The Procuring Agency may require the Contractor, or its designated representative, to perform the repairs after non-acceptance or the work may be done by the Procuring Agent's personnel with reimbursement by the Contractor.

S. Repairs by the Contractor

If the Procuring Agency required the Contractor to perform repairs after non-acceptance of the vehicle, the Contractor must begin work within two (2) working days after receiving notification from the Procuring Agency of failure of acceptance tests. The Contractor shall provide, at its own expense, all spare parts, tools, and space required to complete the repairs.

T. Title

Adequate documents for securing the vehicles in the County of Natrona, Wyoming shall be provided to the Procuring Agency at the time of delivery. Following acceptance of each vehicle, the Contractor warrants that the title shall pass to the Procuring Agency free and clear of all liens, mortgages and encumbrances, financing statements, security agreements, claims and demands of any character.

U. Vehicle Certification

All vehicle(s) shall be furnished and certified by a Manufacture's Statement of Origin.

V. Communications

Communications in connection with this Contract shall be in writing and shall be delivered personally; to be telex or by regular, registered or certified mail addressed to the Officer(s) or employee(s) of the City of Casper and of the Contractor designated to receive any such communications, but shall not be official communications unless confirmed in writing.

W. Immunity/Governmental Claims Act

The City does not waive any right it may have to assert defenses available under the Governmental Claims Act, Wyoming Statutes 1-39-101 et seq., and the City specifically reserves the right to assert such defenses.

X. Solicitations for Subcontractors, Including Procurement of Materials and Equipment

In all solicitations, either by competitive bidding or negotiation made by the Contractor, for work to be performed under a subcontract, including or procurement of materials or lease of equipment, each potential subcontractor or supplier shall be notified by the Contractor or the Contractor's obligation under this contract and the regulations relative to nondiscrimination on the ground of race, color, or national origin.

Y. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with non-discrimination provision of the Contract, the City shall impose contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

1. Withholding of payment to the Contractor under the Contract until the Contractor complies with; and/or,

2. Cancellation, termination, or suspension of the Contract, in whole or in part.

Z. Incorporation of Provisions

The Contractor shall include these provisions in every subcontract, including procurement of materials and leases of equipment, unless exempt by the regulations, or directive issued pursuant thereto. The Contractor shall take such actions with respect to any subcontract or procurement as the City of the Federal Transit Administration may direct as means of enforcing such provisions including sanctions for noncompliance; provided however, that, in the event a Contractor becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

AA. Subletting of Contract

This contract shall not be sublet except with written consent of the City. No such consent shall be constructed as making the City a party to such subcontractor. No subcontract shall, under any circumstances, relieve the Contractor of its liability and obligation under this contract, and all transactions with the City must be through the Contractor.

BB. Licensing and Permits

The Contractor shall secure appropriate licenses for the work required as a result of the contract. The cost for any required licenses or permits shall be the responsibility of the Contractor. The Contractor is liable for any and all taxes due as a result of the contract.

CC. Waiver

The failure of the City in any one or more instances to enforce one or more of the terms or conditions of the contract documents or to exercise any of its rights and privileges, or waiver of any breach of such terms or conditions, shall not be construed as thereafter waiving any such terms, conditions, rights or privileges and the same shall continue and remain in force and effect as if no waiver had occurred.

DD. Publication, Reproduction and Use of Material

No custom material produced in whole or in part under the contract shall be subject to copyright or patent in the United States or in any Country. The City and FTA shall have authority to publish, disclose, distribute, and otherwise use, in whole or in part, any custom materials prepared under the contract.

EE. Prohibited Interest

No member, officer, or employee, of the City of Casper during his tenure or one year thereafter shall have any interest, direct or indirect, in this agreement of the proceeds thereof.

FF. Interests of Members of, or Delegates to, Congress

The Contractor hereby certifies that no member of, or delegate to the Congress of the United States shall be admitted to any share or part of this Project or to any benefit therefrom.

GG. Interest of Contractors

The Contract covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this agreement. The Contractor further covenants that in the performance of this agreement, no person having such interest shall be employed.

HH. Default

Each and every term and condition of this Contract shall be deemed to be a material element of this Contract. In the event either party should fail or refuse to perform according to the terms of this Contract, he may be declared in default hereof.

II. Remedies Upon Default

In the event a party has been declared in default hereof and performance is not possible within the completion time as established herein, such defaulting party shall be allowed a period of five (5) days within which to cure said default, may elect to: (a) Immediately terminate the Contract; (b) Treat the Contract as continuing and require specific performance; and/or (c) Avail himself of any other remedy at law or equity. Termination shall be effective upon mailing, by the terminating party, of written notice of termination to the defaulting party, by registered or certified mail, return receipt requested, if the Contractor defaults or neglects to carry out the work in accordance with this Contract, the Procuring Agency may elect to make good such deficiencies and charge the Contractor thereof.

JJ. Disputes, Breaches, Defaults, or Other Litigation

The Contractor agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

1. Notification to FTA - The City of Casper agrees to notify FTA of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the City of Casper seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform FTA before doing so.
2. Federal Interest in Recovery - The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery, except that the City of Casper may return any liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.
3. Enforcement - The City of Casper agrees to pursue all legal rights provided within any third party contract.
4. FTA Concurrence - FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the City of Casper.
5. Alternative Dispute Resolution - FTA encourages the City of Casper to use alternative dispute resolution procedures, as may be appropriate.

**KK. Prompt Payment to Subcontractors**

The Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than fourteen (14) business days after the Contractor has received payment from the City of Casper.

In addition, all Retainage amounts must be paid by the Contractor to the Subcontractor no later than thirty (30 ) business days after the Subcontractor has, in the opinion of the Construction Supervisor, satisfactorily completed its portion of the work.

A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the Metropolitan Planning Organization Supervisor of the City of Casper.

The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.

The City of Casper will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with the City of Casper of lien waivers, canceled checks (if requested), and the Contractor's sworn statement that it has complied with the prompt payment requirements. Prime Contractors must submit a prompt payment affidavit, (form to be provided by the City of Casper) which identifies each subcontractor (both DBE and non-DBE) and the date and amount of the last payment to such subcontractor, with every payment request filed with the City of Casper, except for the first payment request, on every contract with the City of Casper.

Failure to comply with these prompt payment requirements is a breach of Contract, which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment.

## FEE PROPOSAL FORM

### For the Management of Casper Area MPO

In accordance with the specifications, terms and conditions of the Request for Proposal and related addenda, if any, which is hereby acknowledged, the following fees are submitted on the behalf of:

Printed Legal Name and Address of Offeror

---

---

	Monthly	Yearly
	Management Fees	Management Fees
07/1/2017 to 06/30/2018	\$_____ x 12 months	=\$_____
11/1/2017 to 10/31/2018	\$_____ x 12 months	=\$_____
11/1/2018 to 10/31/2019	\$_____ x 12 months	=\$_____
11/1/2019 to 10/31/2020	\$_____ x 12 months	=\$_____
11/1/2020 to 10/31/2021	\$_____ x 12 months	=\$_____
Total Initial Term Management Fee:		\$_____
11/1/2021 to 10/31/2022	\$_____ x 12 months	=\$_____
11/1/2022 to 10/31/2023	\$_____ x 12 months	=\$_____
11/1/2023 to 10/31/2024	\$_____ x 12 months	=\$_____
11/1/2024 to 10/31/2025	\$_____ x 12 months	=\$_____
11/1/2025 to 10/31/2026	\$_____ x 12 months	=\$_____
Total Optional Term Management Fee:		\$_____

Signature of Authorized Representative \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name and Title \_\_\_\_\_

### Proof of Responsibility Statement

The Casper Area MPO requires anyone submitting a bid or proposal to complete a sworn statement consisting of information relating to their capacity to complete the work requested, including financial stability, equipment, experience in the work prescribed, etc. If the DTA is not satisfied with the sufficiency of the answers to the questionnaire and financial statement, it may reject the bid or disregard the same or require additional information. Attach separate sheets as necessary.

#### Statement of Bidder Qualifications and Responsibility

1. Name of Bidder or Proposer:\_\_\_\_\_
2. Address:\_\_\_\_\_
3. Legal form of company (partnership, corporation, joint venture, etc.)\_\_\_\_\_
- (If a joint venture, identify the members of the joint venture and provide all information required in this section for each member.)
4. When Organized:\_\_\_\_\_
5. Where Incorporated (as applicable):\_\_\_\_\_
6. How many years has the firm or organization been engaged in the contracting business under the present firm name?\_\_\_\_\_

Questions 7-13: If the answer is 'Yes', please provide details in a separate attachment.

7. Have you ever failed to complete any work awarded to you? No\_\_\_\_ Yes\_\_\_\_
8. Have you ever defaulted on a contract? No\_\_\_\_ Yes\_\_\_\_
9. Have you ever been sued for services you provided? No\_\_\_\_ Yes\_\_\_\_
10. Has your firm been charged with or convicted of, a violation of a wage schedule? No\_\_\_\_ Yes\_\_\_\_
11. Does your organization possess all valid licenses, registrations and certifications required by federal, state, county or city law necessary for the work it seeks to perform? No\_\_\_\_  
Yes\_\_\_\_
12. Has your organization had any type of business, contracting or trade license, certification or registration revoked or suspended in the last three years? No\_\_\_\_ Yes\_\_\_\_
13. Is your firm or organization a part of a multi-entity corporation, a wholly-owned subsidiary, or more than 51% owned by another firm or organization? No \_\_\_\_ Yes\_\_\_\_ If yes, provide documentation on the parent organization, audited statements of financial standing, working capital financing, authorization to enter into contracts, and other proof of responsibility.



14. Does your firm have experience in similar type of projects or work, and have sufficient equipment, personnel, expertise, and financial reserves to perform the work successfully?

No\_\_\_ Yes\_\_\_ (If no, please explain on a separate sheet. If yes, please provide the names and contact information of three (3) references.)

15. Has your firm or organization been a debtor in a bankruptcy proceeding in the last ten years?

No\_\_\_ Yes\_\_\_ If yes, on a separate sheet of paper titled "Bankruptcy Information", state date, court of jurisdiction, amount of liabilities and amount of assets.

**COMPTROLLER GENERAL'S LIST OF INELIGIBLE CONTRACTORS**

The undersigned hereby certifies neither it, or its subcontractors, are included on the U.S. Comptroller General's Consolidated List of Persons or Contractors currently Debarred for Violations of Various Public Contracts Incorporating Labor Standard Provisions.

COMPANY NAME: \_\_\_\_\_

AUTHORIZED OFFICIAL: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

## CERTIFICATION OF RESTRICTIONS ON LOBBYING

The Contractor certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or shall be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients of contracts over \$100,000 shall certify and disclose accordingly.

This certification is a material representation of the fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

## City of Casper

### Protest Procedures Relevant to Procurements using FTA Funds

#### Part I – Protest to City

1. Protests regarding pre-award, award, and post-award phases of the procurement process, including, but not limited to, requests for proposals (RFP), receipt of specifications, sealed bid, and contract award and implementation, must be filed, in writing, with the City Manager or his designee.
2. Pre-award protests must be filed at least two (2) days prior to the closing date for receipt of bids. Award and post-award protests must be filed no later than two (2) days after the bid opening. Preliminary protest shall be accepted as long as additional supporting material follows within two days after bid opening.
3. The protestor shall submit a copy of the filed protest to the entity that prepared the document on which the protest is based; i.e., the specifications, RFP, contract, contract implementation, or other.
4. The protest shall:
  - a. Include the name and address of the protestor
  - b. Identify the origination entity, project, and information relating to contract solicitation
  - c. Contain an explicit statement of the grounds for the protest and any possible supporting documentation.
5. The City Manager or his designee shall review the protest and any relevant documentation. The protest, all relevant documentation, and any decisions shall constitute the record.
6. Such review shall be held within five days of the filing of the protest. The City Manager shall inform the protestor of his/her decision in writing within ten days of the decision. Such decision shall provide at least a general response to each material issue raised in the protest.
7. If the City Manager decides the protest is valid, he or she shall prepare a recommendation that all bids may be rejected or the low bid may be rejected and the bid awarded to the next responsible low bidder.
8. The decision of the City Manager may be appealed to the City Council. Appeals to the Council shall be made in writing ten days after the Manager's decision. The decision of the Council shall be considered final. The Council shall notify the appellant, in writing, of its decision within five days of the decision.
9. The City shall not award a contract for five days following the decision on a bid protest except as provided in Section II(7). After five days, the City shall confirm with FTA that FTA has not received a protest on the contract in question.
10. If the Council decides the protest is not valid and no protest has been filed with FTA within five days, the bid award will continue according to normal procedures.

## Part II – Protest to FTA

1. Pursuant to FTA Circular 4220.1f, FTA may entertain a protest that alleges that the grantee failed to adopt or follow an adopted written protest procedure.
2. A protest must be filed with the appropriate FTA Regional Office, with a concurrent copy to the City, not later than five days after the City renders a final decision under the City's protest procedure, or five days after the protestor knew or should have known of the City's failure to render a final decision on the protest.
3. The protest filed with FTA shall:
  - a. Include the name and address of the protestor
  - b. Identify the grantee, project number, and the number of the contract solicitation
  - c. Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures, and be fully supported to the extent possible. Include a copy of the local protest filed with the grantee and a copy of the grantee's decision, if any.
4. FTA shall notify the grantee in a timely manner of the receipt of a protest. FTA shall instruct the grantee to notify the contractor of the protest if award has been made, or if no award has been made, to notify all interested parties. The grantee shall instruct all who receive such notice that they may communicate further directly with FTA.
5. The grantee shall submit the following information no later than ten days after receipt of notification by FTA of the protest:
  - a. A copy of the grantee's protest procedure
  - b. A description of the process followed concerning the protestor's protest
  - c. Any supporting documentation
6. The grantee shall provide the protestor with a copy of the above submission. The protestor must submit any comments on the grantee's submission no later than ten days after the protestor's receipt of the grantee's submission.
7. When a protest has been timely filed with the City before award, the City will not make an award prior to five days after the resolution of the protest, or if a protest has been filed with FTA, during the pendency of that protest, unless the City determines that:
  - a. The item(s) to be procured are urgently needed
  - b. Delivery or performance will be unduly delayed by failure to make the award
  - c. Failure to make prompt award will otherwise cause undue harm to the grantee or the federal government
  - d. Failure to make prompt delivery will otherwise significantly increase the price of the purchase

Upon receipt of the submissions, FTA will either request further information or a conference among the parties, or will render a decision on the protest.